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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,160	03/18/2004	Ratan K. Chaudhuri	EMI-48 PI	4138

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EXAMINER

FLOOD, MICHELE C

ART UNIT	PAPER NUMBER
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1655

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,160

Applicant(s)

CHAUDHURI, RATAN K.

Examiner

Michele Flood

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, drawn to a method for regulating the appearance of skin comprising topically applying to the skin a composition comprising (a) a cosmetically or pharmaceutically acceptable carrier and about 0.05% to about 5% of an extract comprising a low molecular weight hydrolysable tannin, and mixtures thereof, (b) an effective amount of at least one additional skin care active ingredient selected from a recited Markush group, classified in class 424, subclass 62.
- II. Claims 4-6 and 13-16, drawn to a method for inhibiting or decreasing the expression or function of a matrix metalloprotease in the skin comprising topically applying to the skin a composition comprising a cosmetically or pharmaceutically acceptable carrier and about 0.05% to about 5% of an extract comprising a low molecular weight hydrolysable tannin, classified in class 424, subclass 62.
- III. Claims 7-9, 17 and 18, drawn to a method for inhibiting or decreasing a reactive oxygen species in the skin comprising topically applying to the skin a composition comprising a cosmetically or pharmaceutically acceptable carrier and about 0.05% to about 5% of an extract comprising

a low molecular weight hydrolysable tannin, classified in class 424, subclass 62.

- IV. Claims 10-12, 19 and 20, drawn to a method for inhibiting or decreasing oxidative stress induced by free iron and copper in the skin comprising topically applying to the skin a composition comprising cosmetically or pharmaceutically acceptable carrier and about 0.05% to about 5% of an extract comprising a low molecular weight hydrolysable tannin, classified in class 424, subclass 62.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the four different groups are directed to four different inventions, as the four different inventions are directed to four different methods having different functions and effects. Moreover, these methods are capable of separate manufacture, use or sale, as claimed, and are patentable (novel and unobvious) over each other (though they may be unpatentable because of the prior art) subjects. One would not have to practice the various methods at the same time to practice just one method alone.

Thus, the search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further a reference which would anticipate the invention of one group would not necessarily anticipate or even make obvious another

group. Finally, the consideration for patentability is different in each case. Thus, it would be an undue burden to examine all of the above inventions in one application.

Because these inventions are distinct for the reasons given above and the search required for one Group is not required for another Group, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1655

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MICHELE FLOOD
PRIMARY EXAMINER

Michele Flood
Primary Examiner
Art Unit 1655

MCF
January 9, 2006